IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 6880 of 2005(R)

PETITIONER:

PROF. D.ARAVINDAKSHAN,
S/O.LATE K.DAMODARAN, AGED 47,
EDAYANETH HOUSE, S.R.P. MARKET P.O.,
KARUNAGAPPALLY.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:

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1. THE MAHATMA GANDHI UNIVERSITY,
REP. BY ITS REGISTRAR,
PRIYADARSINI HILLS, ATHIRAMPUZHA,
KOTTAYAM DISTRICT.

2. THE VICE CANCELLOR,
MAHATMA GANDHI UNIVERSITY,
PRIYADARSINI HILLS, ATHIRAMPUZHA,
KOTTAYAM DISTRICT.

3. THE SYNDICATE OF THE MAHATMA GANDHI
UNIVERSITY, PRIYADARSINI HILLS, ATHIRAMPUZHA,
KOTTAYAM DISTRICT.

4. THE SELECTION COMMITTEE CONSTITUTED FOR
SELECTION TO THE POST OF REGIONAL DIRECTOR IN THE
SCHOOL OF TECHNOLOGY AND APPLIED SCIENCES,
M.G.UNIVERSITY, PRIYADARSINI HILLS,
ATHIRAMPUZHA, KOTTAYAM.

5. DR.K.SHREEKRISHNAKUMAR,
SENIOR LECTURER, SCHOOL OF TECHNOLOGY AND APPLIED
SCIENCE, M.G.UNIVERSITY REGIONAL CENTRE,
PULLARIKUNNU, KOTTAYAM.

6. DR.P.R.PRINCE, LECTURER,
SCHOOL OF TECHNOLOGY AND APPLIED SCINECES,
M.G.UNIVERSITY REGIONAL CENTRE,

PATHANAMTHITTA.

7. DR. N.C.SANTHAKUMARI,
SANTHI 43/2205 A, SRM ROAD,
COCHIN-682 018.

8. SRI.BINDU M.S.,
READER, SCHOOL OF TECHNOLONY & APPLIED
SCIENCE M.G.UNIVERSITY REGIONAL CENTRE,
EDAPPALLY, COCHIN-24.

R6 BY ADV SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
R5 & 7 BY ADV SRI.K.P.RAMACHANDRAN
SRI.P.V.CHANDRA MOHAN
R1 TO 4 SRI. T.A. SHAJI, SC, M.G.UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAYDELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 6880/05

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE PRESS RELEASE ISSUED BY THE M.G. UNIVERSITY IN MALAYALA MANORAMA DAILY DT.

EXT.P2: -DO- OF THE BIO DATA SHOWING THE QUALIFICATION OF THE PETITIONER FOR THE POST

EXT.P3: -DO- OF THE CALL LETTER ISSUED BY THE M.G. UNIVERSITY TO THE PETITIONER DT. 16.2.2005

EXT.P4: -DO- OF THE NOTICE ISSUED BY THE UNIVERSITY PUBLISHING THE SELECT LIST OF CANDIDATES TO THE POST OF REGIONAL DIRECTORS IN SCHOOL OF TECHNOLOGY AND APPLIED SCIENCES

EXT.P5: -DO- OF THE FAX SENDING REPORT EVIDENCING THE RECEIPT OF INTERIM ORDER

EXT.P6: -DO- OF THE ORDER ISSUED BY THE REGISTRAR OF THE UNIVERSITY IN FAVOUR OF 7TH RESPONDENT

EXT.P7: -DO- OF THE COMMUNICATION DT. 28.2.2005

EXT.P8: -DO- OF THE MEMO ISSUED BY THE UNIVERSITY DT. 26.5.2005

EXT.P9: -DO- OF THE NEWS ITEM APPEARED IN MALAYALA MANORAMA DAILY DT. 1.7.2005

RESPONDENTS' EXTS:
EXT.R5A: COPY OF THE APPLICATION SUBMITTED BY THE FIFTH RESPONDENT FOR THE POST

EXT.R5B: -DO- OF THE CERTIFICATE IN SUPPORT OF THE APPLICATION

EXT.R5C: -DO- OF THE APPOINTMENT ORDER RECEIVED BY THE FIFTH RESPONDENT

EXT.R5D: -DO- OF THE LETTER BY AICTE REGARDING THEIR INSPECTION

EXT.R6A: TRUE COPY OF ORDER NO: SF1/21025/STAS DT. 28.2.2005 ISSUED BY THE M.G. UNIVERSITY

EXT.R6B: -DO- OF BIO-DATA OF THE 6TH RESPONDENT

EXT.R6C: -DO- OF THE NON-CREAMY LAYER CERTIFICATE ISSUED TO THE 6TH RESPONDENT BY THE TAHSILDAR DT. 5.7.2003

EXT.R7A: COPY OF THE APPLICATION SUBMITTED BY THE 7TH RESPONDENT TO THE JT. REGISTRAR DT. 26.7.2004

EXT.R7B: -DO- OF THE CERTIFICATES IN SUPPORT OF THE APPLICATION

EXT.R7C: -DO- OF THE CALL LETTER DT. 16.2.2005 FOR INTERVIEW RECEIVED BY THE 7TH RESPONDENT

EXT.R7D: -DO- OF THE APPOINTMENT ORDER ON CONTRACT BASIS DT. 28.2.2005 RECEIVED BY THE 7TH RESPONDENT

EXT.R7E: -DO- OF THE LETTER BY THE DIRECTOR TO HAND OVER THE CHARGE

jj /TRUE COPY/

P.S. TO JUDGE

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 6880 OF 2005-R

JUDGMENT

The M.G.University by Ext.P1 notification, invited applications for appointment to three posts of Regional Directors in the School of Technology and Applied Sciences. The academic qualification prescribed for the post was Post-graduate Degree with not less than 55% marks in the subject concerned. P.Hd was prescribed as a desirable qualification. Ten years' experience in teaching/administration of industry was also an obligatory qualification. The petitioner, who was having the prescribed qualifications was one of the applicants. Eight candidates including the writ petitioner were called for an interview on 23.2.2005. Pursuant to the selection, a list of candidates was published on 26.2.2005, as per Ext.P4. The respondents 5 to 8 are the persons included in the said list. Feeling aggrieved by the non-inclusion of him in the select list, this writ petition was filed. The petitioner seeks to quash Ext.P4 and also prays for consequential reliefs.

2. The University and the party respondents have filed counter affidavits, supporting Ext.P4.

3. Heard the learned counsel on both sides. The learned counsel for the petitioner submitted that the post of Regional Director is a post in the grade of Professor in the University. So, the method of selection of Teachers provided in the Statute of the M.G.University must have been followed. In this case, the Vice Chancellor constituted a committee consisting of herself and the present and past Directors of the School of Technology and Applied Sciences. As per the relevant Statutes governing the selection of Teachers, there should be at least three outside experts. In this case, there was not even a single outside expert. The Ex-Director of the School of Technology and Applied Sciences is a person even now closely associated with the activities of the University. In this case, on publication of the select list on 26.2.2005, the Vice Chancellor made appointments on 28.2.2005. As per the Statutes, the appointing authority of Teachers is the Syndicate. As the Syndicate was going to meet on 3.3.2005, there was no emergency to make the appointments by the Vice Chancellor on 28.2.2005. Further, in making the selection, the Rules of reservation were not followed. So, the petitioner prays for quashing Ext.P4.

4. The learned standing counsel for the University submitted that appointment to the post of Regional Director is not governed by the provisions of the Statute. Therefore, the selection need not be made by a

committee constituted in accordance with the Statute governing selection of Teachers. There are no allegations of mala fide against the selection. A fair procedure has been followed. It is also submitted that while making the appointments, the Rules of reservation were followed.

5.The petitioner has failed to show that the procedure for selection of Teachers is made applicable to the selection of Regional Directors also. In the absence of any binding decision or order of the competent body of the University adopting the said procedure, the selection cannot be condemned for the reason that the selection committee has not been constituted in accordance with the Statutes governing selection of Teachers. Further, a fairly high level committee has been constituted. In the absence of any binding Rules, Orders or Statutes governing the selection, it can be done by the Vice Chancellor, following a fair procedure. In this case, a committee was constituted and based on the recommendation of the said committee, the selection was made. There is nothing on record to show that the selection is vitiated by mala fides. While making the selection, the Rules of reservation need not be followed. The said question arises only at the stage of appointment. Such Rules were followed in making the appointments, as evident from the submission of the learned standing counsel for the University.

In view of the above position, I find nothing illegal with Ext.P4. Accordingly, the Writ Petition fails and it is dismissed.

30th November, 2007. **K.BALAKRISHNAN NAIR, JUDGE**.

Nm/